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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
AT PORTLAND

**MASONRY BUILDING OWNERS OF
OREGON, an Oregon mutual benefit
nonprofit corporation, FOUNTAIN
VILLAGE DEVELOPMENT LLC, an
Oregon limited liability company, and
JIM A. ATWOOD, in his capacity as
trustee of the Jim. A. Atwood Trust dated
August 10, 2017,**

PLAINTIFFS,

v.

**TED WHEELER, in his official capacity as
Mayor of the City of Portland and
Commissioner in charge of the Bureau of
Development Services, DAN SALTZMAN, in
his official capacity as Commissioner in
charge of the Fire Bureau, and CITY OF
PORTLAND, an Oregon municipal
corporation,**

DEFENDANTS.

Case No.: 3:18-cv-02194-AC

**DECLARATION OF JIM A. ATWOOD
IN SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY
INJUNCTION**

I, Jim A. Atwood, declare:

1. I am the Trustee of the Jim A. Atwood Trust dated August 10, 2017, one of the plaintiffs in this matter. The Trust owns the building commonly known at the Glade Hotel located at 14-18 NW 3rd Avenue, Portland Oregon and is legally described as the West 85' of the South ½ of Lot 6, Block 19, Couchs Addition to the City of Portland, Multnomah County, Oregon.

2. I make this declaration in support of plaintiffs' motion for a preliminary injunction.

3. The Glade Hotel is circa 1890- and is constructed out of brick, is 5,625 square foot in size, has a small restaurant and bar on the ground floor with 2 floors of residential space above. It was categorized as "Compatible" with historic landmarks in the Skidmore-Oldtown Historic District by the Oregon Landmarks Commission.

4. I purchased the Glade in 1976 for \$35,000 with a \$3,500 down payment. It was vacant and run down. Over the years I have struggled to make the monthly payments when vacant and have invested much time and money upgrading the property to attract new tenants. The building has been improved up to then current code multiple times under building permits issued by the City of Portland; then inspected and final approval signed off by City of Portland building inspectors. The Multnomah County Assessor now states that its real market value is \$1,562,110.

5. In 2014, I was approached by Damian Crowther of the Portland Development Commission (PDC) asking if I'd be interested in a "demonstration grant" wherein the PDC would pay for most or all of a full seismic upgrade if I would be willing to pay the rest of the cost to change the use of the building to its highest and best use.

6. Wanting to upgrade the Glade Hotel, I immediately agreed to contribute use of the Glade Hotel to demonstrate how cheap and inexpensively it could be seismically upgraded. There was just one catch: I had to pay for an approximately \$40,000 "feasibility study" to be

done by SRM, a consultant of PDC's choosing. In which event, PDC would later reimburse me for ½ the cost after it was completed. I agreed.

7. SRM's study of the Glade included estimates provided by many subcontractors of PDC's choice. I consented to this arrangement because PDC was going to be paying for the seismic upgrade and at the same time, show the world how inexpensively a building could be seismically upgraded.

8. SRM studied several uses and came up with designs for 3 options. All options assumed the ground floor would continue to be used as a restaurant and bar. But the upper 2 stories were proposed as a "boutique" hotel (it's original use), offices, and single room occupancy (SRO) housing. Completion of the feasibility study took about a year, being completed in 2015.

9. During the study period, I led several tours of the property and had my picture taken with the architects, planners, subcontractors, and PDC officials. I was led to believe the photos would be used in a brochure PDC was going to prepare showcasing the renovation of the Glade Hotel and explaining how little it cost to seismically upgrade.

10. The feasibility study was completed around July, 2015. The approximately \$40,000 cost of the study did not include an estimate of costs to seismically upgrade the building. PDC contracted for that study separately since it was going to be part of their seismic upgrade costs. Also, naturally, they wanted to select the most inexpensive way to seismically upgrade the building.

11. PDC received their cost estimate for the seismic upgrade in September, 2015. However, they did not disclose that to me. 2015 came and went and I still had not heard from PDC as to when they wanted to start the project. My contact at PDC was very slow to respond and kept saying they were putting together a plan. He kept putting me off.

12. At some point in 2016, Mr. Crowther simply said the City's plans were on "hold". I asked for a copy of the seismic upgrade cost estimate. He promised to send it but failed to do so. After many, many repeated requests, I received a copy of the cost estimate.

13. The seismic cost estimate was done by Stanly J. Pszczolkowski, AIA, with Architectural Cost Consultants, LLC. (ACC) The "hard" costs were \$907,369. I was astonished by the high price. At the time, the replacement cost of the old building with a new building of the same size and function was \$940,000

14. In addition to the hard costs of the seismic upgrade, it would cost about \$400,000 to repair the damages caused by the seismic upgrade for a total of \$1,307,369. On top of that, the "soft" costs including architects, engineers, geotechs, lawyers, historic consultants, loan costs, permits, and contingency totaled about \$571,357 in 2015 dollars. Therefore, the total costs of a seismic upgrade would be \$1,878,726; about twice the replacement cost of the building.

15. I obtained a second opinion from Miller Engineering which, more or less, agreed the ACC estimate was in the ballpark.

16. My property is subject to the Ordinance. It is apparent that the only way to remove the placards and other requirements (which I view as a "scarlet letter") will be to expend more resources on a retrofit than the entire building is worth.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED this 3rd day of February, 2019.


Jim A. Atwood